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SUMMARY RECORD OF THE 10th MEETING

Chairman: Mr. LEHMANN (Denmark)

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The meeting was called to order at 10.30 a.m.

AGENDA ITEM 146: MEASURES TO ELIMINATE INTERNATIONAL TERRORISM (continued) (A/50/372 and Add.1, A/50/67-S/1995/64, A/50/128-S/1995/247, A/50/133-S/1995/282, A/50/135-S/1995/293, A/50/168-S/1995/341, A/50/215-S/1995/475, A/50/254-S/1995/501, A/50/305-S/1995/608, A/50/315-S/1995/622, A/50/359-S/1995/718 and A/50/457-S/1995/811)

1. Mr. NAGY (Hungary) said that his delegation wished to reiterate its support for the Declaration on Measures to Eliminate International Terrorism and to reaffirm its belief that under no circumstances could any social, economic or political situations, interests or goals be used to justify the senseless killing of innocent human beings. Such criminal acts even threatened international peace and security, for they had the potential to destroy relations between nations. It was unlikely that terrorism could be fully eradicated in the near future. Nevertheless, terrorism and violence were unacceptable and had to be combated. The international community as a whole was affected by terrorism, which could be "contagious" and spill over international borders.

2. Although States differed in their vulnerability to terrorist acts and their capacity to respond to them, no State could enjoy complete immunity from terrorism. Preventive efforts were hindered by the fact that a great deal of terrorist activity was carried out by underground groups. Nevertheless, his delegation considered it realistic to strive for increased international cooperation in the combat against terrorism, the aim of which should be to protect the interests of individual States and of the international community as a whole.

3. A comprehensive legal framework relating to the combat against terrorism already existed. To make it even more effective, States needed to comply strictly with the provisions of the relevant agreements and implement them in a consistent manner. To that end, States should ensure that their domestic legislation adequately reflected existing international norms. All States should become parties to international agreements dealing with terrorism, a step his own country had already taken.

4. His delegation attached great importance to the expansion of bilateral, regional and multilateral cooperation in preventing terrorism and apprehending the perpetrators of terrorist acts. Fruitful cooperation in combating organized crime and terrorism had already been developed between his country and its neighbouring States, and with the Commonwealth of Independent States and the Member States of the European Union. It was important that national authorities should recognize and respond collectively to the growing links between terrorist groups and traffickers in arms and drugs and other organized crime groups. The United States and Hungary had recently established an international law enforcement academy in Budapest with a view to training police officers and law enforcement officials from Central Europe and States of the former Soviet Union.

5. The most effective way to fight international terrorism was through strict compliance by States with their obligations under international law. Cooperation among States was particularly important with regard to international instruments dealing with the protection of civil aviation, the protection of diplomats, the prohibition of hostage-taking, terrorist acts at sea and the use of plastic explosives. The international community must draw on the accumulated experience of bilateral and regional cooperation in combating terrorism and should promote cooperation with international agencies active in the field.

6. Mr. KAMAL (Pakistan) said that Pakistan unequivocally condemned terrorism in all its forms and manifestations, whether perpetrated by individuals, groups or States, and had consistently supported anti-terrorism measures by the United Nations, the Organization of the Islamic Conference, the South Asian Association for Regional Cooperation and other intergovernmental organizations.

7. Terrorism must not be confused with the legitimate struggle for freedom from colonial or other forms of alien domination and foreign occupation. That distinction was reflected in resolutions adopted by the General Assembly, including resolution 46/51. Colonial and occupying Powers had always sought to justify the suppression of freedom struggles by depicting them as "terrorism", thereby compromising one of the most fundamental human rights, the right to be free. In recent years, Pakistan itself had been the victim of terrorism sponsored from across its borders. In most cases, those acts had been planned and instigated by the covert agencies of one of its neighbours and had been directed against innocent people in Pakistan.

8. Terrorism was a complex phenomenon which resulted from diverse causes; hence the difficulty in defining it. However, the common element in all forms of terrorism was violence against innocent people. The worst form of terrorism was State terrorism, which could be described as the ruthless use of force by an occupying Power or an aggressor to suppress the right of a people to self-determination. Its worst manifestations had been seen in Bosnia and Herzegovina and in Kashmir.

9. It was terrorism when a State used violence against people in territories under its occupation to curb their civil and political rights and suppress their struggle for freedom; when places of worship were violated and desecrated by the forces of occupation; when State security forces used rape as an instrument of terror; when repression, subjugation, illegal arrests and intimidation were used as State policy by the forces of occupation; when village after village, neighbourhood after neighbourhood was burnt to ashes by State forces and bodies; and when over 600,000 troops were deployed to brutalize and crush the unarmed and innocent civilians of a disputed territory.

10. Past decisions, particularly resolution 46/51, should form the basic framework within which the General Assembly could continue the task of building mechanisms to contain and ultimately eradicate terrorism. Expressions of condemnation of terrorism were not sufficient. What was required was a comprehensive definition, the adoption of strong international legislation, the establishment of viable supporting mechanisms, and international cooperation for the eradication of all forms of terrorism.

11. Mrs. BAYKAL (Turkey) said that terrorism violated the most fundamental human right, the right to life. Cross-border terrorism, as witnessed in 1995, must be dealt with as a global phenomenon. The so-called linkage usually established between political and socio-economic conditions and acts of terrorism was morally wrong and should never be resorted to as a justification of those acts. Turkey strongly condemned all forms and manifestations of terrorism and called on Member States to take effective measures to prevent, in their territories, all illegal activities of persons, groups or organizations that instigated or engaged in terrorist acts.

12. Turkey had been one of the prime targets of terrorism in the past decade. It was therefore taking all possible steps to eliminate terrorism. The anti-terrorism law, which had come into force on 12 April 1991, provided a clear definition of terrorism and new arrangements for prosecuting and punishing terrorist acts. At the international level, Turkey had concluded bilateral agreements with various States and was also a party to most of the multilateral conventions concluded on terrorism and related subjects.

13. The implementation of the Declaration on Measures to Eliminate International Terrorism was an urgent task for the international community. The strengthening of regional and international cooperation and coordination to attain the objectives of the Declaration would be a crucial factor in its success. With that in mind, her Government had sent a detailed report to the Secretary-General, including an English version of the Turkish legislation on terrorism which, regrettably, had not been published in the report because of lack of resources. Turkey believed that the publishing of national legislation on terrorism was of particular significance and that resources must be made available to carry out the measures envisaged in the Declaration.

14. Turning to the suggestions made by the Secretary-General in his report (A/50/372), her delegation felt that, in connection with paragraph 8, Member States and the depositories of multilateral conventions should provide information to the Secretary-General on an annual, rather than a biennial, basis. In connection with paragraph 12, a mere descriptive analysis of existing international instruments relating to international terrorism would not suffice; an analytical review of those instruments would help Member States develop a comprehensive legal framework of existing conventions and legal instruments dealing with international terrorism. Her delegation believed that the agenda item on measures to eliminate international terrorism should be considered on an annual basis.

15. Mr. SYARGEEU (Belarus) said that Belarus attached great importance to the efforts made by the United Nations and other international organizations to combat international terrorism, and to the practical implementation of the Declaration. It supported the proposals by the Secretary-General for the implementation of paragraph 10 of the Declaration, within existing resources.

16. It was essential that the largest possible number of States should accede to the basic international conventions against terrorism and fulfil their obligations under them. Belarus was already a party to most of the international instruments referred to in the report of the Secretary-General

(A/50/372). The bilateral treaties concluded by Belarus provided for reciprocal obligations of States in combating terrorism.

17. At the same time, neither the strengthening of national legislation, nor the expansion of the list of acts defined as terrorism in international agreements, nor the coordination of the work of police services could in themselves solve the problem. A qualitatively new level of international cooperation was needed. Although steps had been taken to expand the political and legal base of the struggle against terrorism, the level of inter-State cooperation was inadequate to the scale of the problem. Universal measures must be taken and international structures created.

18. His delegation supported the efforts of the Secretary-General to implement paragraph 10 of the Declaration. It was encouraged by the steps taken by the Group of Seven, with the participation of the Russian Federation, in developing regional and subregional cooperation. It felt that increased efforts should be made to compile and disseminate recent experience of Member States in the fight against terrorism, promote the exchange of information, education and training, and provide countries with technical and advisory assistance. The United Nations Commission on Crime Prevention and Criminal Justice could play a significant role in that regard. His delegation was in favour of practical cooperation between States, especially in respect of the unification of domestic legislation, preventive measures and the apprehension and prosecution of terrorists. It therefore welcomed the establishment of the international law enforcement academy in Budapest.

19. Mr. AL-SAMEEN (Oman) said that his Government regarded terrorism as a serious problem with adverse consequences for security and stability and condemned terrorism in all its forms and manifestations. His Government had also become a party to many conventions on the subject. The preamble to the Charter of the United Nations stressed the right of peoples to live in peace and the need to maintain international peace and security while promoting the economic and social advancement of all peoples. The goals of terrorism were in contradiction to the Charter and were aimed at undermining freedom and the security and stability of States. International terrorism had worsened and become increasingly complex because of the emergence of extremist conflicts. The international community, represented by the United Nations, must therefore take urgent, legally binding measures to complement the steps which States, large and small, were taking to eliminate the threat of terrorism. In addition, action must be taken to alert the public to the dangers and adverse consequences of terrorism and the seriousness of extremism in all forms, since such extremism was a fertile ground for terrorism.

20. Despite all the changes in the world, including the end of the cold war and the reduction of conflicts, it had been impossible to find an effective solution to the problem of terrorism. Instead, the phenomenon was becoming more varied and its consequences were no less serious than those of war. It was for that reason that the Security Council had expressed deep concern about international terrorism and stressed the need for the international community to react to terrorism in an effective way within the framework of the Charter.

21. There was no doubt that attempts to combat terrorism would be successful only if all States undertook to respect the principles and norms of international law and of the Charter and if the international community undertook to combat terrorist acts without using a double standard and to ensure the implementation of the provisions of the international conventions on terrorism. His delegation fully supported the proposal that the Secretary-General should submit an annual report to the Security Council on terrorist acts perpetrated in violation of the provisions of the international conventions.

22. His delegation believed that the United Nations should undertake a media campaign against all forms terrorism, fanaticism and extremism, along the lines of the international campaign against racial discrimination and apartheid.

23. Mr. HABIYAREMYE (Rwanda) said that his delegation wished to denounce forms of terrorism that had been overlooked. At the time when resolution 49/60 had been adopted without a vote, Rwanda had recently experienced a period of barbarous genocide on the part of a self-proclaimed, criminal Government. The United Nations had been unable to react effectively to that conflict, which, in less than four months, had cost 2 million lives. Consensus had been reached on the Declaration on Measures to Eliminate International Terrorism but certain countries had shown little respect for their given word and had arrogantly adopted attitudes counter to the letter and spirit of that text, ignoring in particular paragraphs 1, 3 and 5.

24. As a result, the criminals who had fled Rwanda with hostages after the genocidal massacres still held those hostages imprisoned in a state of terror. Violent incursions had been made along Rwanda's borders and anti-personnel mines had been laid. Rwanda had denounced the training of former Rwandan forces in other countries and had called for more effective international and regional cooperation. As recently as the previous week, an eminent African head of State had told The New York Times that he would not cooperate with the International Tribunal for Rwanda and had threatened to arrest anyone who attempted to pursue within his country the criminals responsible for the genocide in Rwanda. That type of terrorism, along with the taking of hostages, had been forgotten in the United Nations discussion of terrorism. Those countries which sheltered Rwandan refugees from justice must take responsibility for their actions before the international community and cooperate with the latter. The International Tribunal for Rwanda had been created by Security Council resolutions, and those resolutions must be implemented. The credibility of the United Nations was at stake.

25. Mr. ABDELRAHMAN (Sudan) said that his delegation attached great importance to the item under consideration. Terrorism could lead to the loss of innocent lives and threaten the stability of nations, and effective international measures must be taken to eradicate it. Terrorism knew no boundaries, as had been demonstrated by the attempted assassination of the President of Egypt, which Sudan condemned as a criminal act which had threatened the lives of innocent people and damaged property. The Sudan believed in the importance of concerted effort at the international level; it conformed to all international laws, treaties and conventions on terrorism and had ratified the existing conventions against international terrorism and a number of regional instruments and bilateral conventions on the extradition of criminals. The Sudan had always

supported the measures against terrorism adopted by the General Assembly and, during the previous session, had participated in the deliberations on decision 48/411 on measures to eliminate international terrorism.

26. The United Nations should convene an international conference on terrorism and its eradication. However, terrorism should not be confused with the struggle of peoples under colonial rule or foreign domination and it must be accurately defined so that the definition could not be abused for political ends. Too generalized a definition of terrorism might allow some States to condemn others without justification and could cause social and economic harm. All acts not in conformity with the provisions of the Charter of the United Nations, or which might lead to the formation of armed groups for the purpose of challenging political systems, were forbidden under international law. The Sudan also opposed the use of mercenaries in any way that might directly or indirectly threaten the security and stability of other countries. At the previous session of the General Assembly, his delegation had emphasized the importance of not confusing terrorism and Islam. It supported the positions expressed in the General Assembly by the Foreign Minister of Germany. International efforts against terrorism would bear fruit only if the international community had the will to eradicate terrorism once and for all.

27. The Sudan urged all countries to ratify the existing conventions against terrorism and bring their national legislation into line with the international conventions on the eradication of international and local terrorism. It was important to foster international cooperation in the prosecution of criminals, and countries with common borders should sign bilateral conventions to that end. Regional and international activities could play an important role in efforts to increase public awareness of the problem through the mass media. In that connection, developing countries must be provided with technology and advice since that, too, would help to combat terrorism.

28. The Declaration was merely a step forward in the battle against international terrorism. It would eventually lead to the adoption of an international convention, and the Sixth Committee should therefore continue its study of the question and to seek a consensus.

29. Mr. Mapanqo KEMISHANGA (Zaire) said that Zaire's foreign policy was based on the principles of non-interference in the internal affairs of other States, mutual respect, cooperation with all States which valued peace and justice and belief in the mutual advantages stemming from such cooperation, good neighbourliness, and peaceful settlement of disputes between States, and it had always condemned without reservation all terrorist acts, by whomever and for whatever reason committed, because they often targeted innocent lives. It was in that spirit that Zaire had signed a number of international conventions dealing with international terrorism.

30. Zaire also supported resolution 49/60, which it considered to be a further step towards the eradication of terrorism on a world-wide basis. However, since the adoption of that resolution, terrorist acts appeared to have become even more widespread on all continents. Recently, the Government and people of Zaire had occasion to deplore the cowardly massacre of six Italian nationals engaged in a humanitarian mission to assist the one and a half million refugees who had

fled to Zaire from neighbouring countries and whose massive presence had, incidentally, virtually destroyed the basic infrastructure and security in the eastern part of the country. The Italians had been guilty of no other crime than love, solidarity and respect for other human beings and the desire to help them survive. Their murders, committed by bandits who had not yet been identified, had prompted Zaire to rebuild its internal and external security services. The incident cast doubt on the sufficiency of the measures endorsed by the international community in the fight against international terrorism.

31. Terrorism was a challenge to the ideal of living, building and prospering in peace. His delegation therefore noted with satisfaction that the Declaration invited the Secretary-General to undertake "a review of existing possibilities within the United Nations system for assisting States in organizing workshops and training courses on combating crimes connected with international terrorism". Moreover, his delegation supported the idea of convening an international conference with a view to adopting a more binding and effective universal legal text.

AGENDA ITEM 148: REVIEW OF THE PROCEDURE PROVIDED FOR UNDER ARTICLE 11 OF THE STATUTE OF THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS (A/C.6/49/2)

32. Mr. SANCHEZ (Spain), speaking on behalf of the European Union, said that the Union was in favour of abolishing article 11 of the statute of the Administrative Tribunal of the United Nations. That article established a cumbersome and complex procedure which served no useful purpose. It called for a committee of representatives of States Members of the United Nations to exercise quasi-judicial functions and attributed to the International Court of Justice a role of which did not correspond to the latter's primary mission of settling disputes between States.

33. The procedure under article 11 had not facilitated the administration of justice within the United Nations system. Since the adoption of the article in 1955, the Committee on Applications had referred only three cases to the International Court of Justice and on each occasion the Court had upheld the judgement of the Administrative Tribunal. The procedure under article 11 did not, therefore, offer to United Nations staff any effective guarantee of their statutory rights.

34. At the forty-eighth session of the General Assembly, there had been a general consensus in the Sixth Committee that the current review procedure should be abolished. As stated by the Secretary-General (A/C.6/49/2, para. 37) the procedure had "not proved to be a constructive and useful element of the appeal system available within the Secretariat," but had "caused confusion and criticism, which supports the view that the best solution would be to abolish the current procedure".

35. The Administrative Tribunal was a review body and, accordingly, there was no obligation to re-examine its decisions. Nevertheless, if the General Assembly decided to abolish the procedure provided for under article 11, serious consideration should be given to the establishment of another mechanism which would be of practical use in settling disputes involving staff members.

36. Consideration was currently being given to overall changes in the internal justice system of the United Nations Secretariat. The report of the Secretary-General on that matter (document A/C.5/49/13) contained several proposals with regard to dispute settlement, including the establishment of an office of ombudsman, which were being considered by the Fifth Committee.

37. To abolish the current review procedure, the General Assembly would need to adopt a resolution amending the statute of the Administrative Tribunal and provide for transitional measures consistent with such a modification. The European Union called upon delegations to consider the possibility of supporting a resolution to that end, to be adopted during the current session.

38. Mrs. FERNANDEZ de GURMENDI (Argentina) said that review of the procedure provided for under article 11 of the statute of the Administrative Tribunal was very important because that procedure was part of the internal justice system of the United Nations and served to protect its personnel. The Administrative Tribunal had been established in 1949 as a body whose decisions were final and without appeal. Article 7 of the statute provided for prior submission of an application to a joint appeals body, which was limited to making non-binding recommendations to the Secretary-General. The applicant and the Secretary-General could also agree to submit the case directly to the Administrative Tribunal.

39. The current review procedure, established in 1955, did not substantially alter the fact that the Tribunal's decisions were final. Furthermore, the decision to institute that procedure had clearly not been motivated by staff discontent with the functioning of the Tribunal but rather by the objections of some Member States which, influenced by the cold war climate, had been dissatisfied with certain decisions favourable to United Nations staff. Curiously, despite empirical evidence of its lack of effectiveness, the review procedure had gradually come to be perceived and used by staff members as an additional means of protecting their interests. Yet since 1955 there had been only three occasions on which the Committee on Applications had requested an advisory opinion from the International Court of Justice. Moreover, in each case, the Court had upheld the Tribunal's decision.

40. Criticism of the review procedure, with which her delegation agreed, had been increasing. First of all, it was not appropriate to empower an essentially political body such as the Committee on Applications to decide whether or not to request an advisory opinion. Secondly, even if a better procedure were to be instituted, the International Court of Justice was not the most appropriate body for settling disputes between staff and the Organization.

41. The best solution would be to abolish the current review procedure. That mechanism had been set up under special historical circumstances which were fortunately no longer relevant, and had raised false hopes among staff members rather than protecting their interests. In her delegation's view, the review procedure could be eliminated immediately as long as an adequate transition period was provided for any judgements currently under review.

42. Eliminating the review procedure should not be seen as a step backwards. In fact, such action should be accompanied by a comprehensive review of the internal justice system of the United Nations. The goal was to establish a just and effective system of dispute settlement which would offer a wider range of action to staff, ensure due process and protect employee rights. The ideal system would consist of two judicial bodies. If that proved unfeasible, consideration should then be given to strengthening or establishing mechanisms for dealing with disputes before they were submitted to a legal body, including the establishment of an office of ombudsman. It was to be hoped that such possibilities would be considered within the comprehensive review of the internal justice system of the United Nations.

The meeting rose at 11.55 a.m.